

### § 303.520

(3) Review all relevant information and make an independent determination as to whether the public agency is violating a requirement of Part C of the Act or of this Part; and

(4) Issue a written decision to the complainant that addresses each allegation in the complaint and contains—

(i) Findings of fact and conclusions; and

(ii) The reasons for the lead agency's final decision.

(b) *Time extension; final decisions; implementation.* The lead agency's procedures described in paragraph (a) of this section also must—

(1) Permit an extension of the time limit under paragraph (a) of this section only if exceptional circumstances exist with respect to a particular complaint; and

(2) Include procedures for effective implementation of the lead agency's final decision, if needed, including—

(i) Technical assistance activities;

(ii) Negotiations; and

(iii) Corrective actions to achieve compliance.

(c) *Complaints filed under this section, and due process hearings under § 303.420.*

(1) If a written complaint is received that is also the subject of a due process hearing under § 303.420, or contains multiple issues, of which one or more are part of that hearing, the State must set aside any part of the complaint that is being addressed in the due process hearing until the conclusion of the hearing. However, any issue in the complaint that is not a part of the due process action must be resolved within the 60-calendar-day timeline using the complaint procedures described in paragraphs (a) and (b) of this section.

(2) If an issue is raised in a complaint filed under this section that has previously been decided in a due process hearing involving the same parties—

(i) The hearing decision is binding; and

(ii) The lead agency must inform the complainant to that effect.

(3) A complaint alleging a public agency's or private service provider's failure to implement a due process de-

cision must be resolved by the lead agency.

(Authority: 20 U.S.C. 1435(a)(10))

[64 FR 12536, Mar. 12, 1999]

### POLICIES AND PROCEDURES RELATED TO FINANCIAL MATTERS

#### § 303.520 Policies related to payment for services.

(a) *General.* Each lead agency is responsible for establishing State policies related to how services to children eligible under this part and their families will be paid for under the State's early intervention program. The policies must—

(1) Meet the requirements in paragraph (b) of this section; and

(2) Be reflected in the interagency agreements required in § 303.523.

(b) *Specific funding policies.* A State's policies must—

(1) Specify which functions and services will be provided at no cost to all parents;

(2) Specify which functions or services, if any, will be subject to a system of payments, and include—

(i) Information about the payment system and schedule of sliding fees that will be used; and

(ii) The basis and amount of payments; and

(3) Include an assurance that—

(i) Fees will not be charged for the services that a child is otherwise entitled to receive at no cost to parents; and

(ii) The inability of the parents of an eligible child to pay for services will not result in the denial of services to the child or the child's family; and

(4) Set out any fees that will be charged for early intervention services and the basis for those fees.

(c) *Procedures to ensure the timely provision of services.* No later than the beginning of the fifth year of a State's participation under this part, the State shall implement a mechanism to ensure that no services that a child is entitled to receive are delayed or denied because of disputes between agencies regarding financial or other responsibilities.

(d) *Proceeds from public or private insurance.* (1) Proceeds from public or private insurance are not treated as program income for purposes of 34 CFR 80.25.

(2) If a public agency spends reimbursements from Federal funds (*e.g.*, Medicaid) for services under this part, those funds are not considered State or local funds for purposes of the provisions contained in § 303.124.

(Authority: 20 U.S.C. 1432(4)(B), 1435(a)(10))

[58 FR 40959, July 30, 1993, as amended at 64 FR 12536, Mar. 12, 1999]

#### § 303.521 Fees.

(a) *General.* A State may establish, consistent with § 303.12(a)(3)(iv), a system of payments for early intervention services, including a schedule of sliding fees.

(b) *Functions not subject to fees.* The following are required functions that must be carried out at public expense by a State, and for which no fees may be charged to parents:

(1) Implementing the child find requirements in § 303.321.

(2) Evaluation and assessment, as included in § 303.322, and including the functions related to evaluation and assessment in § 303.12.

(3) Service coordination, as included in §§ 303.22 and 303.344(g).

(4) Administrative and coordinative activities related to—

(i) The development, review, and evaluation of IFSPs in §§ 303.340 through 303.346; and

(ii) Implementation of the procedural safeguards in subpart E of this part and the other components of the statewide system of early intervention services in subparts D and F of this part.

(c) *States with mandates to serve children from birth.* If a State has in effect a State law requiring the provision of a free appropriate public education to children with disabilities from birth, the State may not charge parents for any services (*e.g.*, physical or occupational therapy) required under that law that are provided to children eligible under this part and their families.

(Approved by the Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1432(4))

#### § 303.522 Identification and coordination of resources.

(a) Each lead agency is responsible for—

(1) The identification and coordination of all available resources for early intervention services within the State, including those from Federal, State, local, and private sources; and

(2) Updating the information on the funding sources in paragraph (a)(1) of this section, if a legislative or policy change is made under any of those sources.

(b) The Federal funding sources in paragraph (a)(1) of this section include—

(1) Title V of the Social Security Act (relating to Maternal and Child Health);

(2) Title XIX of the Social Security Act (relating to the general Medicaid Program, and EPSDT);

(3) The Head Start Act;

(4) Parts B and H of the Act;

(5) The Developmental Disabilities Assistance and Bill of Rights Act (Pub. L. 94-103); and

(6) Other Federal programs.

(Approved by the Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1435(a)(10)(B))

[58 FR 40959, July 30, 1993, as amended at 63 FR 18296, Apr. 14, 1998]

#### § 303.523 Interagency agreements.

(a) *General.* Each lead agency is responsible for entering into formal interagency agreements with other State-level agencies involved in the State's early intervention program. Each agreement must meet the requirements in paragraphs (b) through (d) of this section.

(b) *Financial responsibility.* Each agreement must define the financial responsibility, in accordance with § 303.143, of the agency for paying for early intervention services (consistent with State law and the requirements of this part).

(c) *Procedures for resolving disputes.* (1) Each agreement must include procedures for achieving a timely resolution of intra-agency and interagency disputes about payments for a given service, or disputes about other matters related to the State's early intervention